

## Policy Title

Whistleblower Policy

## Policy Statement

Monash College is committed to the highest standards of integrity and conduct and to providing an environment in which people feel free to raise legitimate issues relating to College operations.

The purpose of this Policy is to help deter wrongdoing, by encouraging disclosure of wrongdoing and ensuring that anyone who makes a disclosure can do so safely, securely and with confidence that they will be protected and supported. This policy reinforces Monash College's commitment to providing a safe and confidential environment where concerns regarding wrongdoing can be raised without fear of reprisals or victimisation.

The Corporations Act 2001 (Cth) (**the Act**) provides for protections for whistleblowers (Whistleblower Protection Scheme).

You are a protected Whistleblower and entitled to protection under the Act if:

- you are an 'eligible whistleblower'; and
- you make a disclosure that qualifies for protection under the Act; and
- the disclosure is made to an eligible recipient.

This policy, together with the Whistleblower Procedure, sets out information which the Act requires Monash College to include in a whistleblower policy. The Whistleblower Policy and Whistleblower Procedure must be read together.

Persons inside and outside Monash College may make disclosures which qualify for protection under the Act if they are 'eligible whistleblowers'.

The meaning of 'eligible whistleblower' is explained in the Definitions (below).

## What can a Whistleblower Disclosure be about?

**A Whistleblower Disclosure may be made of information about a 'disclosable matter'.**

The meaning of 'disclosable matter' is explained in the Definitions (below).

A disclosure that is not about a disclosable matter does not qualify for protection under the Act.

A disclosure will still qualify for protection even if it turns out to be incorrect, provided the person making the disclosure had reasonable grounds for suspicion in relation to the disclosure. However, anyone who knowingly makes a false report of a 'disclosable matter', or who otherwise fails to act honestly with reasonable belief in respect of the report may be subject to disciplinary action, including dismissal.

A personal work-related grievance does not qualify for protection under the Act, protection may be offered under other legislation such as the *Fair Work Act 2009 (Cth)*. Student Academic and Non-academic complaints would not usually qualify for protection under the Act.

## Who can a Whistleblower Disclosure be made to?

The disclosure must be made to the types of people inside and outside Monash College who can receive that disclosures that qualify for protection, that is:

- 'eligible recipients' (the meaning of 'eligible recipient' is explained in the Definitions below).
- legal practitioners (for the purpose of for the purpose of obtaining legal advice or representation in relation to whistleblower protections under the Act);
- certain agencies and regulatory bodies (including the Australian Securities and Investments Commission (**ASIC**), or another entity prescribed under the Act).

Monash College encourages persons wishing to make a disclosure to approach the Whistleblower Protection Officer in the first instance. Whistleblower disclosures can be made to [whistleblower.officer@monashcollege.edu.au](mailto:whistleblower.officer@monashcollege.edu.au). The Whistleblower Officer is the Monash College Company Secretary.

Where a disclosure has been made to an eligible recipient and no action is taken in relation to the information disclosed within specified a time, the discloser may be able to make the disclosure to a journalist or Member of Parliament as a "public interest disclosure" or emergency disclosure". To qualify for protection, a public interest disclosure or emergency disclosure must be made strictly in accordance with section 1317AAD of the Act. Monash College recommends persons considering making a public interest disclosure or emergency disclosure first seek legal advice.

## How to make a disclosure

Information about how to make a disclosure, and the different options available for making a disclosure, are set out in section 1.3 of the Whistleblower Procedure.

## Protections for Whistleblowers

### Protecting the identity of a Whistleblower

Monash College will treat disclosures from 'eligible whistleblowers' confidentially and sensitively and will take steps to protect the identity of the 'eligible whistleblower'.

You can remain anonymous in making your report, over the course of the investigation and after the investigation is finalised. This must be considered when you make that report. (If you wish to remain anonymous a pseudonym name and contact details maybe used).

It is illegal for a person to identify a discloser, or disclose information that is likely to lead to the identification of the discloser. If you are an 'eligible whistleblower', your identity and position (or any other information which would be likely to identify you) will only be shared where permitted by the Act, including if:

- you consent to the information being shared;
- the disclosure is to a recipient permitted by the Act, such as the Australian Securities and Investments Commission or Australian Federal Police; or

- the disclosure is otherwise allowed or required by the Act (for example, to a lawyer to receive legal advice or legal representation relating to the whistleblower provisions of the Act).

In addition, information likely to lead to the identification of an 'eligible whistleblower' (but not the identity of the whistleblower) may be shared if sharing the information is reasonably necessary for the purposes of investigating a matter to which the disclosure relates.

In this circumstance all reasonable steps will be taken to reduce the risk that you will be identified. For example, conducting interviews off-site or in a confidential setting, storing records securely, and limiting access to a need to know basis. As a discloser, you can refuse to answer questions that you feel could reveal your identity at any time.

### **Protection against detrimental treatment**

Monash College is committed to protecting 'eligible whistleblowers' from 'detriment' and will take practical action, as necessary, to protect 'eligible whistleblowers' from the risk of detriment and intervene if detriment has already occurred.

The Act prohibits a person from engaging in conduct that causes, or threatens to cause, detriment to a discloser or another person by reason of a belief that the discloser or another person made or could make a disclosure that qualifies for protection.

See Definitions below for meaning of 'detriment' under the Act.

If an 'eligible whistleblower' believes that they have suffered detriment they can lodge a complaint with an 'eligible recipient' or ASIC for investigation. Monash College encourages 'eligible whistleblowers' seek Independent legal advice.

### **Other legal protections**

The Act provides a number of other legal protections for persons who make disclosures that qualify for protection, including:

- the right to seek compensation and other remedies through the courts if they suffer loss, damage or injury because of a disclosure as a result of Monash College or a related body corporate failing to take reasonable precautions and exercise due diligence to prevent detrimental conduct;
- protection from civil liability (e.g. arising out of legal action for breach of an employment, confidentiality or other contractual obligation);
- protection from criminal liability relating to the making the disclosure (other than liability for making a false disclosure); and
- administrative liability (e.g. disciplinary action for making the disclosure).

The protections under the Act do not include protection from misconduct a discloser has engaged in that is revealed in their disclosure.

### **Support and practical protection**

Monash College may take a range of practical measures to support disclosers and protect them from detriment. These are set out in section 1.5 of the Whistleblower Procedure.

### **Investigating Whistleblower Disclosures**

Monash College will determine the appropriate course for investigating whistleblower disclosures, in accordance with the disclosures out in the section 2.2 of the Whistleblower Procedure.

The College may conduct its own investigation into the disclosure or engage an external organisation to do so.

If an investigation is conducted, it will:

- follow a fair process;
- be conducted in as timely a manner as the circumstances allow; and
- be independent of the person(s) about whom an allegation has been made.

### **Fair treatment of individuals mentioned in disclosures**

Monash College will take the following measures to ensure fair treatment of employees mentioned in disclosures (including an employee who is the subject of a disclosure):

- disclosures will be handled confidentially where practical and appropriate;
- investigations of disclosures will be undertaken objectively, fairly and independently; and
- an employee who is the subject of the disclosure will be kept informed and otherwise treated in accordance with the principles of natural justice.

### **Communication with the Protected Whistleblower**

Monash College will ensure that, provided the claim was not submitted anonymously, the 'eligible whistleblower' is kept informed of the outcomes of the investigation of their allegations. This will be subject to the considerations of privacy of those against whom allegations are made and considerations of confidentiality affecting Monash College. Where a disclosure is made anonymously, you are encouraged to maintain ongoing communication with the eligible recipient.

## Definitions

### Eligible Whistleblower

In order to recognise and protect you as a whistleblower you need to meet the following “eligibility” criteria as required in the Act.

You must be an individual who is or has been any of the following:

- an officer or employee of Monash College.
- an individual who supplies services or goods to Monash College (whether paid or unpaid).
- an employee of a person that supplies services or goods to Monash College (whether paid or unpaid).
- an individual who is an associate of Monash College (e.g. *Board Committee member*).
- a relative, dependent or spouse of an individual referred to in any of the points above.

### Disclosable Matter

In relation to a whistleblower disclosure under the Act, a disclosable matter is information which the person making the disclosure has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances in relation to the College or a related body corporate.

This includes the disclosure of information if the discloser had reasonable grounds to suspect that the information indicates that the College or a related body corporate, or an officer or employee of the College or a related body corporate, has engaged in conduct that:

- constitutes an offence against or contravention of prescribed Commonwealth legislation;
- constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
- represents a danger to the public or the financial system.

### Eligible Recipient

To be a disclosure that qualifies for protection the disclosure must be made to one of the following:

- An internal or external auditor, or member of an audit team conducting an audit of the College or a related body corporate.
- An officer or senior manager of the College (for the College this would include a Board member (see College website for names) or the COO).
- A person authorised by the College to receive whistleblower disclosures (that is, the Whistleblower Protection Officer);

- Australian Securities and Investment Commission (ASIC).
- A lawyer (to obtain advice or representation about the Corporations Act). Eligible recipients of Monash University as a related body corporate, (refer to the Monash University Whistleblower Policy).

### **Detriment**

Under the Act, detrimental conduct is defined to include the following:

- dismissal of an employee;
- injury of an employee in his or her employment;
- alteration of an employee's position or duties to his or her disadvantage;
- discrimination between an employee and other employees of the same employer;
- harassment or intimidation of a person;
- harm or injury to a person, including psychological harm;
- damage to a person's property;
- damage to a person's reputation;
- damage to a person's business or financial position;
- any other damage to a person.

### **Whistleblower Officer**

For Monash College the person authorised by the company to receive whistleblower disclosures is the Whistleblower Officer. This is the Company Secretary.

## **Records Management**

The Whistleblower Policy is a Level 1 Governance Policy. The latest approved version of the Whistleblower Policy will be stored on the Policy Bank on the Monash College intranet and published on its internet site.

The policy owner will maintain a record of issues relevant to the Whistleblower Policy for consideration at the time of review.

## **Legislation and Standards**

*Part 9.4AAA of the Corporations Act 2001*

<b>Reference Policies and Supporting Documentation</b>	<a href="#">Fraud, Bribery, Foreign Bribery and Corruption Policy</a> <a href="#">Fraud, Bribery, Foreign Bribery and Corruption Procedure</a> <a href="#">Staff Personal and Professional Code of Conduct</a> Whistleblower Procedure <a href="#">Monash University Whistleblower Policy</a> <a href="#">Monash University Whistleblower Procedure</a>
<b>Responsibility for Implementation</b>	Chief Executive Officer Monash College Senior Leadership Team Director Governance
<b>Status</b>	Revised
<b>Key Stakeholders</b>	Monash College Board of Directors Audit & Risk Committee MCPL Senior Leadership Team
<b>Approval Body</b>	Monash College Pty Ltd Board of Directors  Meeting number: 3/2022 Meeting date: 30 June 2022
<b>Date Effective</b>	19/08/2020
<b>Next Review Date</b>	30/06/2024
<b>Policy Owner Job Title Division</b>	Director, Governance Governance
<b>Policy Author</b>	A/ Company Secretary
<b>Contact</b>	Director Governance
<b>Policy Level</b>	Level 1

## Change history

Version number	Approval date	Approved by	Brief outline of changes
1.0	15 August 2018	Monash College Board of Directors	New policy
2.0	20 June 2019	Monash College Board of Directors	Updated to reflect changes to legislation.
3.0	18 August 2020	Monash College Board of Directors	Updated to reflect changes to Victorian legislation and MU requirements.
3.1	30 June 2022	Monash College Board of Directors	Updated Whistleblower Officer. Edits to reflect review.